

**Part 1**  
**California Administrative Code**

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## EXPRESS TERMS

### ITEM 1-1 AS SUBMITTED

#### Chapter 6

#### Article 1. Definitions and Requirements

1.4.5.1.2 Except as provided in Section 1.4.5.1.3, a nonconforming hospital building that does not meet the structural and nonstructural requirements of Table 2.5.3 and Table 11-1 shall not provide acute care services or beds after the compliance deadlines set forth in Section 1.5.1. After these deadlines, the following shall apply, from which all acute care services have been removed shall no longer be classified as a hospital building.

1. A nonconforming hospital building used only for nonacute hospital purposes shall be classified as an a hospital outpatient clinical hospital services building shall not be classified as a hospital building, and it shall comply with the provisions of Health and Safety Code Section 129725, or shall be classified as a distinct part skilled nursing facility. The provisions of Health and Safety Code Section 129885(f) shall not apply to buildings used for nonacute hospital purposes. It shall not be subject to the requirements of Title 24, Part 1, Chapter 6.
2. A nonconforming hospital building used as an acute psychiatric hospital or multi-story skilled nursing facility or intermediate care facility shall be classified as a hospital building. However, it shall not be subject to the requirements of Title 24, Part 1, Chapter 6.
3. A nonconforming hospital building used as a single-story wood frame or light steel frame skilled nursing facility or intermediate care facility shall not be classified as a hospital building, and shall not be subject to the requirements of Title 24, Part 1, Chapter 6.
4. A nonconforming hospital building used for purposes other than those listed above shall not be classified as a hospital building; shall not be licensed pursuant to Health and Safety Code Section 1250(a); shall not be subject to the requirements of Title 24, Part 1, Chapter 6; and shall not be under the jurisdiction of the Office.

1.4.5.1.3 A hospital building from which acute care services and beds have that has been removed from acute care service may shall not provide such services be re-licensed as an acute care hospital building unless it has been modified to comply with the requirements of SPC 5 and NPC 4 or 5. Prior to use for acute care service, the SPC and/or NPC of the hospital building shall be changed in accordance with Section 1.4.5.1.1.

*Authority: Health and Safety Code Sections 18929 and 129675-130070  
Reference: Health and Safety Code Section 130063*

#### ITEM 1-1 – Committee Recommendations



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(END OF ITEM)

**ITEM 1-2 AS SUBMITTED**

**Chapter 6**

**Article 1. Definitions and Requirements**

**1.5.2 Delay in Compliance.**

1. The Office may grant the hospital owner an extension to the January 1, 2008 seismic compliance deadline ...
2. Any general acute care hospital located in Seismic Zone 3, as defined by Section 1627A.2 of the ~~1998~~ 1995 *California Building Code* may request an exemption from the anchorage and bracing requirements of NPC 3 if all the following conditions are met:
  - 2.1 The hospital must meet the anchorage and bracing requirements for NPC 2 by January 1, 2002;
  - 2.2 The hospital shall submit a site-specific engineering geologic report, prepared in accordance with Section 1634 ~~B~~: A.1 of the ~~1998~~ 1995 *California Building Code*. The report shall include estimates of the effective peak ground acceleration (EPA) with a 10 percent probability of exceedance in 50 years;

*Authority: Health and Safety Code Sections 18929 and 129675-130070*

*Reference: Health and Safety Code Section 130063*

**ITEM 1-2 – Committee Recommendations**



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**(END OF ITEM)**

**ITEM 1-3 AS SUBMITTED**

**Title 24, Part 1, Chapter 7**

**Article 3. Approval of Plans and Specifications**

**7-113. Application for Plan, Report or Seismic Compliance Extension Review.**

(a) Except as otherwise provided in this part, before commencing construction or alteration of any health facility, the governing board or authority thereof shall submit an application for plan review to the Office ~~for plan review~~, and shall ~~have~~ obtained the written approval thereof by the Office describing the scope of work included and any special conditions under which approval is given.

1. The application shall contain a definite identifying name for the health facility, the name of the architect or registered engineer of record who is in general responsible charge of the work, the names of the architects or registered engineers who have been delegated responsibility responsible for the preparation of portions of the work, the estimated cost of the project and all such other information required for completion of the application. Refer to Section 7-131 regarding incremental design, bidding and construction.

2. Submission of documents to the Office may be in three consecutive stages:

A. Geotechnical Review: One application for plan review and when applicable, three copies of the site data must be attached.

B. Preliminary Review: One copy of reports or preliminary plans and outline specifications. Two copies of preliminary plans and outline specifications must be submitted if additions, structural alterations or new buildings are included.

C. Final Review: One copy of final plans and specifications or reports. Two copies must be submitted if additions, structural alterations or new buildings are included.

~~(b)4-~~ Application for seismic compliance extension requires submission of OSHPD Application Form #OSH-FD-384, "Application for 2008 Extension/Delay in Compliance". A--The submittal must comply with the applicable requirements of Chapter 6, Article 1, Section 1.5.2 "Delay in Compliance".

~~(b) Submission of documents to the Office may be in three consecutive stages:~~

~~1. One application for plan review and when applicable, four copies of the site data must be attached.~~

~~2. One copy of reports or preliminary plans and outline specifications.~~

~~A. Two copies of preliminary plans and outline specifications must be submitted if additions, structural alterations or new buildings are included.~~

~~3. One copy of final plans and specifications or reports.~~

~~A. Two copies must be submitted if additions, structural alterations or new buildings are included.~~

(c) For every project there shall be an architect or structural engineer of record in general responsible charge of reviewing and coordinating all submittals, the preparation of reports or plans and specifications except as set forth in Section 7-115(c) and Sections 129875 of the Health and Safety Code.

1. A project may be divided into parts, provided that each part is clearly defined by a building or similar distinct unit. The part, so defined, shall include all portions and utility systems or facilities necessary to the complete functioning of that part. Separate assignments of architect or engineer of record ~~general responsible charge~~ may be made for the parts.

~~(d) The architect or structural engineer in general responsible charge may delegate responsibility for any portion of the work to, or may employ or retain other architects or registered engineers. No delegation to, or employment or retention of, others shall be construed as relieving the architect or structural engineer in general responsible charge of his rights, duties, and responsibilities under Section 129805 of the Health and Safety Code.~~

~~(d) (e) The assignment of architect or engineer of record, and the assumption of general responsible charge or of delegated responsibility for the preparation of plans and specifications and the administration of the work of construction for portions of the work shall be clearly designated on the ,accepted and approved by the parties concerned (including the governing board or authority of the hospital). The application for approval of reports or plans and specifications provides for the common conditions of delegation of responsibility, but for unusual cases, or for changes in responsibility taking place after the plans have been submitted for approval, the delegation of responsibility, acceptances and approvals thereof shall be submitted in letter form which if prepared by the architect or structural engineer in general responsible charge, shall include an indication that the owner or governing board has been notified.~~

*Authority: Health and Safety Code Sections 127015 and 129850*

*Reference: Health and Safety Code Sections 129675-129998*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129850*

### ITEM 1-3 – Committee Recommendations



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(END OF ITEM)

## Chapter 7

## Article 3. Application for Plan or Report Review

## 7-115. Preparation of Plans and Specifications and Reports.

(a) All plans and specifications or reports, except as provided in (b)(c) below and in Section 129875 of the Health and Safety Code, shall be prepared under the general responsible charge, and signed by, the of an architect or structural engineer of record, or both. The structural plans and specifications or reports shall be prepared and signed by the structural engineer. Prior to submittal to the office, the architect or engineer of record for a project shall sign every sheet of the drawings, and the title sheet, cover sheet or signature sheet of specifications and reports. A notation may be provided on the drawings indicating the architect's or engineer's role in preparing and reviewing the documents. The responsibility for preparing and signing plans and specifications or reports for the mechanical and electrical portions may be delegated by the architect or structural engineer in general responsible charge, to a professional engineer registered in the appropriate branch of engineering.

~~(b)1.~~ Except as provided in paragraph 2 below, the architect or engineer of record in general responsible charge of the work shall be an architect or structural engineer.

2. For the purposes of this section, a mechanical, ~~or electrical or civil~~ engineer may be the engineer of record in general responsible charge of alteration or repair projects that do not affect architectural or structural conditions, and of preparation of plans and specifications or reports and may administer the work of construction where the work is predominately of the kind normally performed by mechanical, ~~or electrical or civil~~ engineers. Any architectural or structural work involved shall be the responsibility of an architect or structural engineer, respectively.

3. Preparation of plans and specifications and administration of the work of construction for designated portions of the work may be performed by other architects and/or engineers as provided in (b) below. Preparation of portions of the work by others shall not be construed as relieving the architect or engineer of record of his rights, duties and responsibilities under Section 129805 of the Health and safety Code.

(b) Architects or engineers registered in the appropriate branch of engineering may be responsible for the preparation of plans and specifications and administration of the work of construction as permitted by their license or registration, and as provided below. Architects and engineers shall sign and affix their professional stamp to all drawings, specifications or reports that are prepared under their responsible charge. All plans shall be signed and stamped prior to issuance of a building permit.

1. The structural plans and specifications or reports shall be prepared under the responsible charge of a structural engineer.

2. A mechanical or electrical engineer may prepare plans, specifications or reports for projects where the work is predominately of the kind normally prepared by mechanical or electrical engineers.

3. A civil engineer may prepare plans specifications or reports for the anchorage and bracing of nonstructural equipment.

(c) A licensed specialty contractor may prepare plans and specifications and may administer the work of construction for health facility construction projects, subject to the following conditions: **Exception:** Plans and specifications for projects identified in items (1) through (4) below may be prepared under the responsibility of and signed by a licensed specialty contractor subject to the following provisions:

~~(A)~~ 1. The work is performed and supervised by the licensed specialty contractor who prepares the plans and specifications,

~~(B)~~ 2. The work is not ordinarily within the standard practice of architecture and engineering, and

~~(C)~~ 3. The project is not a component of a project prepared pursuant to 7-115 (a) and (b),

4. The contractor responsible for the design and installation shall also be the person responsible for the filing of reports, pursuant to Section 7-151, and

5.(4) The work is limited to one of the following types of projects:

A. Fire protection systems where none of the fire sprinkler system piping exceeds 2½ inches in diameter.

~~B.(2)~~ Low voltage systems not in excess of 91 volts. These systems include, but are not limited to, telephone, sound, cable television, closed circuit video, nurse call systems and power limited fire alarm systems.

~~C.(3)~~ Roofing contractor performing reroofing where minimum ¼ inch (6.4mm) on 12 inch (305mm) roof slopes are existing and any roof mounted equipment needing remounting does not exceed 400 pounds.

~~D.(4)~~ Insulation and acoustic media not involving the removal or penetration of fire-rated walls, or ceiling and roof assemblies.

~~The contractor responsible for the design and installation shall also be the person responsible for the filing of reports, pursuant to Section 7-151.~~

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~~Authority: Health and Safety Code Sections 127015 and 120850~~

~~Reference: Health and Safety Code Sections 120675-120908~~

~~Authority: Health and Safety Code Sections 18929 and 129675 - 130070~~

~~Reference: Health and Safety Code Section 129850~~

#### ITEM 1-4 – Committee Recommendations



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(END OF ITEM)

#### ITEM 1-5 AS SUBMITTED

##### Chapter 7

##### Article 3. Application for Plan or Report Review

##### 7-133. Fees.

(a) The fee for plan review and field observation shall be based on the estimated cost of construction as follows: specified below. If the actual construction cost for a hospital or skilled nursing facility project exceeds the estimated construction cost by more than five percent (5%), a further fee shall be paid to the Office, based on the applicable schedule specified in (a) (1) or (2) and computed on the amount by which the actual cost exceeds the estimated cost.

1. The fee for hospital buildings is 1.64 percent of the estimated construction cost;

A. The Office shall charge actual costs for review and approval of seismic evaluations and compliance plans prepared pursuant to Article 8, Chapter 1, Part 7, Division 107, (commencing with Section 130000) of the Health and Safety Code. Total cost paid for these review services shall be nonrefundable and shall be deducted from the fee for a future project involving seismic retrofit or new construction pursuant to the hospital building compliance plan approved by the Office.

2. The fee for skilled nursing and intermediate care facilities, as defined in Subdivision (c), (d), (e) or (g) of Section 1250, Health and Safety Code, is 1.5 percent of the estimated construction cost;

3. The minimum filing fee shall be \$250.00. This filing fee is nonrefundable and shall be applied toward the total fee for plan review and field observation.

(b) The fee for submitting an amended seismic evaluation report or compliance plan is \$250. The fee for review and approval of the amended report or compliance plan shall be subject to Section 7-133 (a)1A. above.

(c) The fee for submitting an application for extension to seismic compliance is \$250.

*Authority: Health and Safety Code Sections 127015, 129785 and Government Code Section 11152.  
Reference: Health and Safety Code Section 129785*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070  
Reference: Health and Safety Code Section 129785*

## ITEM 1-5 – Committee Recommendations



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## ITEM 1-6 AS SUBMITTED

### Chapter 7

### Article 3. Application for Plan or Report Review

#### **7-134. Fee Refund**

(a) Upon written request from the applicant, a fee refund may be issued pursuant to this section.

1. The written refund request must be submitted to the Office within:

a. One year of the date that a project is closed,

b. One year of the date the project is withdrawn by the applicant, or

c. One year of the date when an application may become void, based on the requirements of Section 7-129, Time Limitations for Approval.

2. No refund shall be issued before the date the project is closed or withdrawn or the application is voided.

3. If delinquent fees are owed to the Office for any health facility construction project at the subject facility, no refund shall be issued until the delinquent fees are paid.

4. Refunds, pursuant to Section 7-134, shall be exclusive of the \$250 filing fee.

5. Refunds shall be calculated pursuant to Sections 7-134 (b) or (c).

(b) Refunds for Projects that are Completed. If the estimated construction cost of a project exceeds the actual construction cost by more the five percent (5%), the excess portion of the fees paid pursuant to Section 7-133 (a) (1) or (2) shall be refunded to the applicant health facility. The refund amount shall be computed based on the amount by which the estimated cost exceeds the actual construction cost.

EXCEPTION: The Office will not issue a refund if the applicant did not complete construction of at least 75% of the square footage included in the original approved plans and specifications for the project, or if the applicant reduces the scope of the project shown on the original approved plans by more than 25%.

(c) Refunds for Projects that are Withdrawn or Cancelled. A portion of the fees paid to the Office, pursuant to Section 7-133, may be refunded to the applicant under the following specified circumstances:

1. If the applicant withdraws a project prior to commencement of plan review, the total fee, exclusive of the \$250 filing fee, shall be refunded to the applicant.

2. If the applicant withdraws a project after commencement of plan review and prior to commencement of construction, 30% of the fee submitted for that project shall be refunded to the applicant.



3. If the applicant cancels a project after commencement of construction, the Office shall not issue a refund.

4. If a project submitted under an annual permit is withdrawn by the applicant, the \$250 filing fee shall not be refunded by the Office.

5. If fees are paid for a project, that is determined by the Office to be exempt from the plan review process or otherwise not reviewable under the Office's jurisdiction, the total fee, exclusive of the \$250 filing fee, shall be refunded to the applicant.

(d) If the applicant is able to demonstrate extraordinary circumstances, the Director of the Office may authorize refunds in addition to those specified above.

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129785*

#### ITEM 1-6 – Committee Recommendations



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#### ITEM 1-7 AS SUBMITTED

##### Chapter 7

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##### Article 4. Construction

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##### 7-144. Inspection.

(a) The hospital governing board or authority shall provide for competent, adequate and continuous inspection by one or more inspectors satisfactory to the architect or structural engineer or both, in responsible charge of the work, or the engineer in responsible charge of the work and the Office.

(b) When the hospital governing board or authority proposes more than one inspector for a construction project, a lead inspector may be identified to coordinate construction inspection and communication with the Office. If identified, the lead inspector shall be certified in a class appropriate to the scope of the project.

(c) Inspector(s) for a hospital construction project shall be approved by the Office in accordance with the provisions of Section 7-212. If an inspector on a project is not competently or adequately performing inspection or has violated a provision of these regulations, as determined by the Office, the provisions of Sections 7-213 and, if necessary, Section 7-214 shall be applicable.

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*Authority: Health and Safety Code Sections 127015 and 129850*

*Reference: Health and Safety Code Sections 129675-129908*

*Authority: Health and Safety Code Sections 18929 and 129675 – 130070*

*Reference: Health and Safety Code Section 129825*

#### ITEM 1-7 – Committee Recommendations



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(END OF ITEM)

**ITEM 1-8 AS SUBMITTED**

**Chapter 7**

**Article 5. Appeals to the Hospital Building Safety Board**

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**7-161. Informal Conference.**

(a) Within six months of a ruling, order, decision or act of the Office acting within the scope of Division 107 (commencing with Section 129675) of the Health and Safety Code, the appellant may issue a written request for an informal conference upon such ruling, order, decision or act to the Office.

(b) Within ~~40~~ 15 business days of receipt of a written request for an informal conference, the Office shall give notice of the date, time and place of such conference to review the ruling, order, decision or act being questioned. The informal conference shall be in a convenient place mutually agreeable to the parties. The informal conference shall be held within ~~20~~ 25 business days of receipt by the Office of the written request for an informal conference.

(c) The informal conference shall be conducted by an Office representative. Parties to such conference may include the appellant, architects and engineers and other appropriate consultants under contract to the appellant or the appellant's legal counsel.

(d) The purpose of the informal conference shall be to discuss the ruling, order, decision or act of the Office with the intent to resolve the issue.

(e) Within ~~seven~~ 10 business days following the informal conference, the Office shall notify the appellant in writing as to the Office's action on the ruling, order, decision or act. Such action shall be to confirm, modify, or reverse the original ruling, order, decision or act.

*Authority: Health and Safety Code Sections 127015, 129850 and 129925  
Reference: Health and Safety Code Sections 129675-129998*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070  
Reference: Health and Safety Code Section 129955*

**ITEM 1-8 – Committee Recommendations**



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(END OF ITEM)

**ITEM 1-9 AS SUBMITTED**

**7-163. Formal Hearing Request.**

(a) If the appellant wishes to continue an appeal after the Office's decision following the informal conference, a formal hearing may be requested of the Hospital Building Safety Board. The appellant shall submit a written request for an appeal to the Hospital Building Safety Board through the Office within ~~44~~ 15 business days of receipt of the notice of the result of the informal conference.

(b) The notice of appeal shall be followed within 60 business days by documents supporting the request for a formal hearing before the Hospital Building Safety Board. Such documents shall be submitted to the Office and shall contain specific information regarding the Office's ruling, order, decision or act and the basis for the appeal.

*Authority: Health and Safety Code Sections 127015 and 129850*

*Reference: Health and Safety Code Sections 129675-129908*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129955*

#### ITEM 1-9 – Committee Recommendations



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(END OF ITEM)

#### ITEM 1-10 AS SUBMITTED

##### 7-165. Formal Hearing.

(a) The Hospital Building Safety Board, or a committee of the Board, appointed by the Chair of the Board, shall act as the hearing body and shall conduct a public hearing on the appeal.

(b) The Chair of the Hospital Building Safety Board shall call a hearing on an appeal. The hearing shall be convened at a location selected by the Chair which, where possible, is reasonably close to the appellant.

(c) The hearing shall be held within 45 business days of the receipt of documents supporting the request for an appeal hearing. Within 45 20 business days of the Office's receipt of the supporting documentation, the parties to the appeal shall be notified in writing of the time and place of the hearing and the composition of the hearing body.

(d) The Chair of the Hospital Building Safety Board shall develop, and have sent to each member, an agenda listing the matters to be considered and, insofar as practicable, copies of all written reports which are to be presented to the Board. The agenda and written reports shall be provided to the members of the Board at least 10 business days before the date of the hearing.

(e) Whenever notice of an appeal hearing for decision of an appeal is issued by the Hospital Building Safety Board or a committee of the Board, such notice shall be provided to the appellant, the Office and all parties to the action at least 10 business days before the date of the hearing.

(f) If a committee of the Board is appointed to hear the appeal, at least five voting members of the Board shall be appointed to such committee. The Chair of the hearing committee shall be appointed by the Chair of the Hospital Building Safety Board. The appeal shall be heard by at least three of the voting members appointed to an appeal committee. The decision shall bear the endorsement of a simple majority of the committee members present.

(g) If the Board is to hear the appeal, at least nine voting members of the Board shall be present to hear the matter. The decision shall bear the endorsement of a simple majority of the Board members present.

(h) The proceedings shall be recorded by tape recorder. Transcripts shall be made available to anyone making a request therefor upon deposit with the Hospital Building Safety Board of the amount of money which the Board has determined necessary to cover the costs of transcript preparation. In addition to the tape recording of the proceedings, decisions of the Board or a committee of the Board shall be recorded by stenographic recording and shown in the minutes of the meeting. The minutes shall show how each Board or committee member voted on the decision.

(i) The appellant may, at his own expense, arrange for stenographic recording and transcription of the hearings.

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*Authority: Health and Safety Code Sections 127015 and 129850  
Reference: Health and Safety Code Sections 129675 - 129908*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070  
Reference: Health and Safety Code Section 129955*

#### ITEM 1-10 – Committee Recommendations



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(END OF ITEM)

#### ITEM 1-11 AS SUBMITTED

##### 7-171. Decision on Appeal.

(a) Decision on an appeal heard by a committee of the Board shall be reached as follows:

1. If all parties agree to the decision recommended by a committee of the Board, the agreement and the names of parties to the appeal shall be entered in the record. The appeal action shall be considered terminated when all parties to the appeal have stipulated to the agreement in writing.
2. If all parties to the appeal do not agree with the decision recommended by a committee, the findings of fact, supporting documents, evidence, exhibits and decision recommended by the committee shall be transmitted to the Hospital Building Safety Board.
3. Within 30 business days after the findings of fact, supporting documents, evidence exhibits and a recommended decision are received, the Board shall hear final arguments from the appellant and render a decision on the appeal. The appellant, the appellant's counsel or the appellant's representatives may not introduce new evidence without approval of the Board.

(b) Decision on an appeal heard by or referred to the Hospital Building Safety Board shall be reached as follows:

1. The Board shall render a decision in public meeting and transmit such decision in writing to each party to the appeal hearing within 15 business days after the close of the hearing.
2. The Board may affirm, reverse or amend the ruling, order, decision or act being appealed or remand the issue for further study.
3. If the Board remands all or a portion of the issues at appeal for further study, the Board shall specify the issues or matters to be studied, who is to study the issues and completion dates for such further study.
4. Findings and recommendations from further study will be transmitted to all parties to the action prior to the Hospital Building Safety Board's public hearing for decision.
5. Within 30 business days of receipt of the findings and recommendations from further study of the issues, the Hospital Building Safety Board shall convene a public hearing to consider the findings and recommendations and arguments from the appellant or the appellant's representatives. The decision of the Hospital Building Safety Board shall be announced in a public hearing and transmitted in writing to all parties involved within 30 business days of the conclusion of the public hearing.
6. Decisions of the Hospital Building Safety Board shall become effective immediately upon their announcements by the Chair of the Board, unless otherwise specified by the Chair.

(c) Should the appellant determine he or she has been adversely affected by the decision of the Hospital Building Safety Board, the appellant may further appeal the issue for resolution by the California Building Standards Commission, in accordance with Health and Safety Code Section 18945.

*Authority: Health and Safety Code Sections 127015 and 129850*

*Reference: Health and Safety Code Sections 129675-129908*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129955*

#### ITEM 1-11 – Committee Recommendations



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(END OF ITEM)

#### ITEM 1-1 AS SUBMITTED

#### Chapter 7

#### Article 6. Contracts

#### 7-191. Contract Qualification Criteria.

(a) Individuals performing services under contracts entered into with the Office pursuant to Health and Safety Code Section 129855 shall meet the following qualifications:

1. Plan reviews shall be performed only by architects or engineers validly certified under Division 3 of the Business and Professions Code as follows:

##### A. Selection Criteria.

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##### E. Estimate of Value of Services.

(1) Before entering into fee negotiations with any firm or local government entity selected pursuant to Section 7-191(a)1C(2) or D, the Office director shall prepare an estimate of the value of the proposed services based on accepted billable rates for comparable services. ~~The estimate will serve as a guide in determining fair and reasonable compensation in the negotiation of satisfactory contracts in accordance with the provisions of Section 7-191(a)1F, G and H and shall not be disclosed until award of the contract or abandonment of the negotiation process for the project or services to which it relates. No award shall be made which would exceed the estimate by more than 10 percent.~~

(2) At any time the director determines the Office's estimate to be unrealistic for any reason, the director shall require the estimate to be reevaluated and, if deemed necessary, modified. If the director modifies an estimate, negotiations will resume with the best qualified firm or local government entity.

*Authority: Health and Safety Code Sections 129850, 129855 and 18940.3; Government Code Section 4526*

*Reference: Government Code Sections 4526*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129855 and Government Code Section 45-6*

##### F. Fee Negotiation with Firms.

(1) ~~Except as specified in (2) below, the~~ The director shall ask firms selected pursuant to Section 7-191(a)1C(2), ~~that may be retained by contract to provide services for work to be identified at a future date, to submit a fee schedule of hourly billable rates. The director shall then attempt to negotiate hourly billable rates determined to be fair and reasonable with the firms, beginning with the best qualified and continuing with the remaining firms, in order of qualifications. In the event that any firm is determined to be nonresponsive or if a~~

~~satisfactory rate cannot be negotiated, the director shall terminate negotiations with that firm. After successful negotiations, a retainer contract will be executed with the firm. There may be multiple contracts awarded and each shall specify a contract period and monetary limitation. When monetary limitation is reached, the firms will not be eligible for any additional work during the contract period. Work shall commence only upon execution of an assignment. Assignments will be negotiated pursuant to Section 7-191(a)1G.~~

a. The firm negotiating with the director shall be given two opportunities to respond to the Office's request to meet the fair and reasonable estimate for hourly billable rates for the contract services;

b. The firm must respond within 7 business days to each request by the Office for a new estimate which either meets or does not exceed by more than 10 percent the Office's fair and reasonable estimate for hourly billable rates; and

c. If after the second attempt, the firm is nonresponsive or a satisfactory hourly billable rate cannot be negotiated, the director shall terminate negotiations with that firm.

(2) After successful negotiations, a retainer contract will be executed with the firm. There may be multiple contracts awarded and each shall specify a contract period and monetary limitation. Work shall commence only upon execution of an assignment. Assignments will be negotiated pursuant to Section 7-191(a)1G.

(2) (3) For firms selected pursuant to Section 7-191(a)1C(2) to provide services for a specific project where the scope of work is extremely complex or unusual, fee negotiations will proceed in accordance with Section 7-191(a)1G.

*Authority: ~~Health and Safety Code Sections 129850, 129855 and 18940.3; Government Code Section 4526~~*  
*Reference: ~~Government Code Sections 4526 and 4528~~*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*  
*Reference: Health and Safety Code Section 129855 and Government Code Section 45-6 and 4528*

#### **G. Services Negotiations with Firms.**

(1) From among the firms selected in Section 7-191(a)1C(2), as most highly qualified to perform services required, the director shall attempt to negotiate a satisfactory assignment or contract with the best qualified firm at a compensation which the Office determines to be fair and reasonable.

a. The firm negotiating with the director shall be given two opportunities to respond to the Office's request to meet the fair and reasonable estimate for assignment or contract services;

b. The firm must respond within 7 business days to each request by the Office for a new estimate which either meets or does not exceed by 10% the Office's fair and reasonable estimate;

c. If after the second attempt, the firm is nonresponsive or a satisfactory rate cannot be negotiated, the director shall terminate negotiations with that firm; and

d. Negotiations with the next best-qualified firm shall commence.

(2) ~~If the director is unable to negotiate a satisfactory assignment or contract with the best qualified firm at a compensation which is determined to be fair and reasonable, negotiations with that firm shall be terminated and negotiations undertaken with the second best qualified firm. If unable to negotiate a satisfactory assignment or contract with the second best qualified firm at a compensation which the Office determines is fair and reasonable, negotiations with that firm shall be terminated and negotiations undertaken with the third best qualified firm. If unable to negotiate a satisfactory assignment or contract with the third best qualified firm, If unable to negotiate a satisfactory assignment or contract with the third best qualified firm at a compensation which the Office determines is fair and reasonable, negotiations with that firm shall be terminated. The director shall continue the negotiation process with the remaining qualified firms, if any, in order of qualifications, until a satisfactory assignment or contract is reached. If unable to negotiate a satisfactory assignment or contract with any of the qualified firms, the director shall abandon the negotiation process for the required services.~~

...

*Authority: Health and Safety Code Sections 129850, 129855 and 18940.3; Government Code Section 4526*  
*Reference: Government Code Sections 4526 and 4528*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*  
*Reference: Health and Safety Code Section 129855 and Government Code Section 45-6 and 4528*

## J. Contracting in Phases.

When the director determines it is necessary or desirable for a project to be performed in separate phases, increments, or stages due to a change in design or scope of work, the director may negotiate compensation for the initial phase, increment or stage of the services required; provided, however, the director first determines that the firm selected is best qualified to perform the entire project. The assignment shall include a provision that the Office may, at its option, utilize the firm to perform other phases, increments or stages of the services under terms which the Office determines to be fair and reasonable, to be later negotiated and included in a mutual written agreement. In the event that the Office exercises its option under the contract to utilize the firm to perform other phases, increments or stages of the project, the procedures of this article regarding estimates of value of services and negotiation shall be followed.

~~Authority: Health and Safety Code Sections 120850, 120855 and 18940.3; Government Code Section 4526~~  
~~Reference: Government Code Sections 4526 and 4528~~

Authority: Health and Safety Code Sections 18929 and 129675 - 130070  
Reference: Health and Safety Code Section 129855 and Government Code Section 45-6 and 4528

## ITEM 1-12 – Committee Recommendations



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APPROVED AS SUBMITTED

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(END OF ITEM)

## ITEM 1-13 AS SUBMITTED

### Chapter 7

### Article 19. Certification and Approval of Hospital Inspectors

#### 7-200. Administration of Hospital Inspector Examination and Certification.

(a) The Office shall test and certify inspectors in one or more of the following classes:

1. Class "A" Hospital Inspector may inspect all areas of construction ~~specialty~~, including: architectural, mechanical, plumbing, electrical, fire and life safety, and structural elements.
2. Class "B" Hospital Inspector may inspect only the following areas of construction ~~specialty~~: architectural, mechanical, plumbing, electrical, fire and life safety, and anchorage of non-structural elements.
3. Class "C" Hospital Inspector may inspect one or more areas of construction specialty, including but not limited to the areas listed in Section 7-204(c)1, architectural, mechanical, electrical, fire and life safety, or structural but may not inspect the complete scope of construction ~~specialties~~ authorized for "A" or "B" inspectors

(b) In order to be certified in and perform the scope of responsibilities of a hospital inspector as specified in paragraph (a) (1), (2) or (3), an individual must be successful in the examination for that classification.

~~Authority: Health and Safety Code Sections 1275, 127010, 127015, 120680 and 120825.~~  
~~Reference: Health and Safety Code Sections 120680 and 120825~~

Authority: Health and Safety Code Sections 18929 and 129675 - 130070  
Reference: Health and Safety Code Section 129825

**ITEM 1-13 – Committee Recommendations**



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**APPROVED AS SUBMITTED**

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**(END OF ITEM)**

**ITEM 1-14 AS SUBMITTED**

**Chapter 7**

**Article 19. Certification and Approval of Hospital Inspectors**

**7-203. Applying for the Certification Examination**

(a) An applicant may apply for the Hospital Inspector Certification Exam by submitting to the Office the following items prior to the final filing date announced for a scheduled exam:

1. A completed original application ...

5. Citizenship/Qualified-Alien verification form, "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits", provided by the Office as stipulated in Section ~~7-204(d)5A~~ 7-216(e)1.

~~(b) Incomplete submittals. An application which is incomplete or is not accompanied by the required documents and/or fees may be rejected by the Office. The application, documents and fees will be returned to the applicant with a statement of reason for nonacceptance.~~

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~~Authority: Health and Safety Code Sections 1275, 127010, 127015, 129680~~

~~Reference: Health and Safety Code Sections 129680 and 129825~~

Authority: Health and Safety Code Sections 1892 and 129675 - 130070

Reference: Health and Safety Code Section 129825

**ITEM 1-14 – Committee Recommendations**



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**APPROVED AS SUBMITTED**

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**(END OF ITEM)**

**ITEM 1-15 AS RESUBMITTED**

**Chapter 7**

**Article 19. Certification and Approval of Hospital Inspectors**

**7-204. Minimum Qualification for Examination.**

An applicant must meet the following criteria to be eligible to participate in the certification examination for a Class "A", "B", or "C" Hospital Inspector:

(a) Minimum Qualifications for Class "A" Hospital Inspector Exam:



1. High school graduation or the equivalent and six years experience involving building projects of Type I or Type II construction as an architect's, engineer's, owner's, local building official's or general contractor's representative in technical inspection or inspection supervision [NOTE: Experience in subsection (a)1 may be substituted with college education with major work in architecture, engineering, building inspection and/or construction on a year-for-year basis for a maximum of two years.]; or

2. Possess a valid California registration/license as a mechanical, electrical, or civil engineer and two years experience involving building projects of Type I or Type II construction as an architect's, engineer's, owner's, local building official's, or general contractor's representative in technical inspection or inspection supervision; or

3. High school graduation or the equivalent and two years of working experience as a Class "B" Hospital Inspector; or

4. Possess a valid California registration/license as a structural engineer or a valid California license as an architect.

(b) Minimum Qualifications for Class "B" Hospital Inspector Exam:

1. High school graduation or the equivalent and four years experience involving building projects of Type I or Type II construction as an architect's, engineer's, owner's, local building official's or general contractor's representative in technical inspection or inspection supervision. [NOTE: Experience in subsection (b)1 may be substituted with college education with major work in architecture, engineering, building inspection and/or construction on a year-for-year basis for a maximum of two years.]; or

2. Possess a valid California registration/license as a civil engineer and two years experience involving building projects of Type I or Type II construction as an architect's, engineer's, owner's, local building official's or general contractors' representative in technical inspection or inspection supervision; or

3. Possess a valid California registration/license as a structural, mechanical or electrical engineer, or a valid California license as an architect.

(c) Minimum Qualifications for Class "C" Hospital Inspector Exam:

1. High school graduation or the equivalent and four years experience involving building projects as the representative in testing, inspection or observation of construction for an architect's, engineer's, owner's, local building official's, local fire authority, testing lab, specialty contractor or general contractor's, representative in technical inspection or inspection supervision. ~~and possess a valid certificate issued by:~~

Fire Alarm – NICET, Level III

Fire Extinguishing Systems – NICET, Level III

Fire Resistive Construction – ICC Building Inspector Certification

Medical Gas Systems – PIPE Certification

Plumbing – IAPMO Certification, Level III

Mechanical – IAPMO Certification, Level III

Electrical – ICC Certification

Concrete (Prestressed and Reinforced) – ICC Certification

Masonry – ICC Certification

Steel – ICC, Structural Steel Certification

Welding – AWS Certification

Framing and Drywall – ICC Building Inspector Certification

Roofing – National Roofing Contractors Association

Anchorage/Bracing of Nonstructural Components – Certification to be administered by the Office

Architectural – Certification to be administered by the Office

In addition to these certification organizations listed, the Office may accept the equivalent certification by a state- or nationally-recognized organization. [NOTE: Experience in subsection (c)(1) may be substituted with college education with major work in architecture, engineering, building inspection and/or construction on a year-for-year basis for a maximum of two years.]; or

2. Possess a valid California registration/license as an engineer and two years experience involving building projects as an architect's, engineer's, owner's, local building official's, local fire authority's, specialty contractor's or general contractor's representative in testing, technical inspection or observation or inspection supervision of construction; or

3. Possess a valid California registration/license as a structural, mechanical, or electrical engineer, or a

valid California license as an architect.

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*  
*Reference: Health and Safety Code Section 129825*

**(d) Verification of Citizenship or Qualified Alien Status.**

1. All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion or national origin of the individual applying for the public benefit.

2. Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. No. 104-193 (PRWORA)], (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) [8 U.S.C. § 1182(d)(5)] for less than one year, are not eligible to receive certification as set forth in Article 19, "Certification and Approval of Hospital Inspectors".

3. A qualified alien is an alien who, at the time he or she applies for the Hospital Inspector examination is, under Section 431(b) of the PRWORA [8 U.S.C. §§ 1641(b) and (c)], any of the following:

A. An alien lawfully admitted for permanent residence under the INA (8 U.S.C. §§ 1101 et seq.).

B. An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).

C. A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

D. An alien who is paroled into the United States under Section 212(d)(5) of the INA [8 U.S.C. § 1182(d)(5)] for a period of at least one year.

E. An alien whose deportation is being withheld under Section 243(h) of the INA [8 U.S.C. § 1253(h)] (as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208) or Section 241(b)(3) of such act [8 U.S.C. § 1251(b)(3)] [as amended by Section 305(a) of Division C of Public Law 104-208].

F. An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980 [8 U.S.C. § 1153 (a)(7)] (see editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment").

G. An alien who is a Cuban or Haitian entrant [as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note)].

H. An alien who meets all of the conditions of subparagraph (1), (2), (3) and (4) below:

(1) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(2) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(i) The benefits are needed to enable the alien to become self sufficient following separation from the abuser.

(ii) The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

- (iii) The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.
  - (iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.
  - (v) The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
  - (vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).
  - (vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
  - (viii) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.
  - (ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.
- (3) The alien has been approved or has a petition pending which sets forth a prima facie case for:
- (i) Status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA [8 U.S.C. Section 1154 (a)(1)(A)(ii), (iii) or (iv)];
  - (ii) Classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA [8 U.S.C. Section 1154(a)(1)(B)(ii) or (iii)];
  - (iii) Cancellation of removal under 8 U.S.C. § 1229b as in effect prior to April 1, 1997;
  - (iv) Status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA [8 U.S.C. § 1154(a)(1)(A)(i)] or classification pursuant to clause (i) of Section 204 (a)(1)(B) of the INA [8 U.S.C. § 1154(a)(1)(A)(i)] or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA [8 U.S.C. § 1154(a)(1)(B)(i)]; or
  - (v) Cancellation of removal pursuant to section 240A(b)(2) of the INA [8 U.S.C. § 1229(b)(2)].
- (4) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

I. An alien who meets all of the conditions of subparagraphs (1), (2), (3), (4) and (5) below:

- (1) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.
- (2) The alien did not actively participate in such battery or cruelty.
- (3) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development.

For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

- (i) The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.
  - (ii) The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.
  - (iii) The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.
  - (iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody and divorce actions) cause the alien's child to lose his or her job or earn less or to require the alien's child to leave his or her job for safety reasons.
  - (v) The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
  - (vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed or clothe children or to put children into a day care for fear of being found by the abuser).
  - (vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
  - (viii) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.
  - (ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.
- (4) The alien meets the requirements of 3H(3) above.
- (5) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

J. An alien child who meets all of the conditions of subparagraphs (1), (2) or (3) below:

- (1) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such batter or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.
- (2) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:
  - (i) The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.
  - (ii) The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

- (iii) The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.
- (iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.
- (v) The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
- (vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed or clothe children or to put children into a day care for fear of being found by the abuser).
- (vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
- (viii) The benefits are needed to provide medical care during pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.
- (ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(3) The alien meets the requirements of 3H(3) above.

4. For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA [8 U.S.C. § 1101(a)(15)].

5. For purposes of establishing eligibility for "Certification and Approval of Hospital Inspectors" examination, as authorized by Sections 1275, 127010, 127015, 129689 and 129825 of the Health and Safety Code, all of the following must be met:

- A. The applicant must declare himself or herself to be a citizen of the United States, a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212 (d)(5) of the INA [8 U.S.C. § 1182(d)(5)]. The applicant shall declare that status through use of a form provided by the Office of Statewide Health Planning and Development.
- B. The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the applicant's declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of alien's declared status.
- C. The applicant must complete and sign the form provided by the Office of Statewide Health Planning and Development.
- D. Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents should be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Office of Statewide Health Planning and Development should request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant should be referred to the local INS office to obtain the proper documentation.
- E. The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:

- (1) The document presented indicates immigration status but does not include an alien registration or alien admission number.
- (2) The document is suspected to be counterfeit or to have been altered.
- (3) The document includes an alien registration number in the A6-000-000 (not yet issued) or A80-000-000 (illegal border crossing) series.
- (4) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181b Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for the Hospital Inspector Certification exam.

F. If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien under the PRWORA, the INS verification should be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, benefits should be denied and the applicant notified pursuant to the Hospital Inspector Certification Examination regular procedures of his or her rights to appeal the denial of benefits.

6. Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the Office of Statewide Health Planning and Development reasonably believes that an alien is unlawfully in the state based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

7. Provided that the alien has completed and signed the form provided by the Office of Statewide Health Planning and Development under penalty of perjury, eligibility for the Hospital Inspector Certification Examination shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

8. Pursuant to Section 432(d) of the PRWORA [8 U.S.C. § 1642 (d)], a nonprofit charitable organization that provides federal, state or local public benefits shall not be required to determine, verify or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

9. Any applicant who is determined to be ineligible pursuant to subsections (2) and (5) or who was made eligible for the Hospital Inspector Certification Examination, whose services are terminated, suspended or reduced pursuant to subsections (2) and (5), is entitled to an appeal, pursuant to Section 7-215 of Article 19, Chapter 7, Part 1.

Authority: Health and Safety Code Sections 1275, 127010, 127015, 129680 and 129825

Reference: 8 U.S.C. " 1621, 1641 and 1642

#### **7-205. Transition Plan for Hospital Inspectors.**

(a) A Hospital Inspector Certificate or Construction Inspector for Health Facilities Certificate issued by the Office prior to the effective date of these regulations will expire three years from that effective date.

(b) An inspector who holds a valid Class "A" or "B" Hospital Inspector Certificate (formerly titled "Construction Inspector for Health Facilities" certificate) issued by the Office prior to the effective date of these regulations must pass a Hospital Inspector Recertification Examination within three years of that effective date to maintain valid certification in the same Hospital Inspector class. If an inspector does not comply with this provision within the three-year transition period, the inspector will no longer be certified by the Office to inspect hospital construction and, when applicable, shall be subject to the provisions of Section 7-212 (f).

(c) If certification is renewed after the three-year transition period, but within six months past the expiration date of the transition period, the Hospital Inspector will be required to pay a delinquency fee pursuant to Section 7-206.

(d) An inspector shall meet the criteria in Section 7-211 (b) in order to participate in the Hospital Inspector Recertification Examination.

Authority: Health and Safety Code, Sections 1275, 127010, 127015, 129680, and 129825

Reference: Health and Safety Code, Sections 129680 and 129825

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ITEM 1-15 Committee Recommendations



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APPROVED AS RESUBMITTED

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(END OF ITEM)

ITEM 1-16 AS SUBMITTED

Chapter 7

Article 19. Certification and Approval of Hospital Inspectors

7-207. Examination for Certification.

(a) The Office shall administer an exam not less than once in every calendar year in the Sacramento and Los Angeles areas. The certification exam will consist of a written exam.

(b) The scope of the written certification examinations is as follows:

1. The examinations for Class "A" and "B" Hospital Inspectors will measure the applicant's ability to read and understand construction plans and specifications; ability to identify and understand the application of various California Building Standards Code requirements; ~~ability to display good judgment in work situations~~; knowledge of appropriate inspector duties and ability to communicate in writing. The test will be divided into sections covering the following code enforcement areas of construction inspection, where applicable: structural, architectural, mechanical, electrical, fire and life safety, and administrative.

2. The examination for Class "C" Hospital Inspectors will measure the applicant's ability to identify and understand the application of various California Building Standards Code requirements; knowledge of appropriate inspector duties and ability to communicate in writing. The candidate's inspection certification, pursuant to Section 7-204(c)(1) above, may be substituted for the technical aspect of the written certification examination for Class "C" Hospital Inspector.

(c) In order to be successful in the Class "A" and "B" certification exam, a candidate must obtain a passing score of at least 75 percent in each section of the written exam.

(d) In order to be successful in the Class "C" certification exam, a candidate must obtain an overall passing score of at least 75 percent.

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~~Authority: Health and Safety Code Sections 1275, 127010, 127015, 129680 and 129825~~

~~Reference: Health and Safety Code Sections 129680 and 129825~~

Authority: Health and Safety Code Sections 18929 and 129675 - 130070

Reference: Health and Safety Code Section 189825

ITEM 1-16 Committee Recommendations



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(END OF ITEM)

**ITEM 1-17 AS SUBMITTED**

**Chapter 7**

**Article 19. Certification and Approval of Hospital Inspectors**

**7-210. Issuance of Certification.**

(a) If a candidate is successful in the certification or recertification examination, a certificate will be issued to the Hospital Inspector by the Office. Certificate will expire three years from the date of issuance with the following exceptions:

1. Certification may be revoked or suspended pursuant to Section 7-214.

~~2. Certification obtained prior to the effective date of these regulations shall expire three years from that effective date.~~

~~Authority: Health and Safety Code Sections 1275, 127010, 127015, 129680 and 129825~~

~~Reference: Health and Safety Code Sections 129680 and 129825~~

Authority: Health and Safety Code Sections 18929 and 129675 - 130070

Reference: Health and Safety Code Section 129825

**ITEM 1-17 Committee Recommendations**



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**ITEM 1-18 AS SUBMITTED**

**Chapter 7**

**Article 19. Certification and Approval of Hospital Inspectors**

**7-212. Approval of Hospital Inspector of Record for Construction Projects.**

a) It is incumbent upon the hospital governing board or authority and the architect or structural engineer, or both, in responsible charge of the work, or the engineer in responsible charge of the work, to select the appropriate inspector(s) for a project. The hospital governing board or authority shall submit to the Office an application for each Hospital Inspector of Record proposed to perform construction inspection on a specified hospital construction project. The hospital governing board or authority shall obtain Office approval of proposed Hospital Inspector(s) of Record prior to commencement of the hospital construction project in accordance with Section 7-135.

(b) The Office shall not approve a proposed Hospital Inspector of Record for a specified hospital construction project if the Office determines one of the following:

1. The Hospital Inspector of Record applicant does not hold a valid Hospital Inspector certificate pursuant to the provisions of these regulations.

2. The Hospital Inspector is not appropriately certified in the class of inspection required for the scope of the construction project. The Class "C" inspector does not possess a current certificate for the area of inspection proposed per Section 7-204(c)1.

3. The Hospital Inspector is a former Office employee pursuant to subsection (c) and is within the one year restriction period governing the Office's approval of an inspector.



4. The Hospital Inspector is committed to a workload outside the specified hospital construction project and is unable to allot adequate time to perform the work on the specified construction project, as determined by the process set forth in subsection (d).

5. The Hospital Inspector is the architect or engineer in responsible charge of the work for the construction project specified on the Hospital Inspector of Record application.

**EXCEPTION:** The Office may approve the architect or engineer in responsible charge of the work, when in the determination of the Office: (A) the project scope, duration and complexity do not merit a separate individual to serve as the Hospital Inspector of Record, and (B) the ability of the Office to obtain accurate and impartial inspection will not be jeopardized.

(c) A former employee of the Office who performed field inspections/observations or supervised staff performing field inspections/observations during employment with the Office shall not be approved for a project by the Office as a Hospital Inspector of Record within one year from the effective date of separation from the Office. ~~This includes a permanent or temporary employee who served in any of the following classifications: Compliance Officer, Regional Compliance Officer, Chief Compliance Officer, Fire and Life Safety Officer, Chief Fire and Life Safety Officer, District Structural Engineer, Supervising Structural Engineer or Principal Structural Engineer.~~

*Authority: Health and Safety Code Sections 1275, 127010, 127015, 129680 and 129825*  
*Reference: Health and Safety Code Sections 129680 and 129825*

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*  
*Reference: Health and Safety Code Section 129825*

#### ITEM 1-18 Committee Recommendations



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APPROVED AS SUBMITTED

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(END OF ITEM)

#### ITEM 1-19 AS SUBMITTED

##### Chapter 7

##### Article 19. Certification and Approval of Hospital Inspectors

##### 7-216. Verification of Citizenship or Qualified Alien Status.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion or national origin of the individual applying for the public benefit.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. No. 104-193 (PRWORA)], (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA ) [8 U.S.C. § 1182(d) (5)] for less than one year, are not eligible to receive certification as set forth in Article 19, "Certification and Approval of Hospital Inspectors".

(c) A qualified alien is an alien who, at the time he or she applies for the Hospital Inspector examination is, under Section 431(b) of the PRWORA [8 U.S.C. §§ 1641(b) and (c)], any of the following:

1. An alien lawfully admitted for permanent residence under the INA (8 U.S.C. §§ 1101 et seq.).
2. An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).
3. A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).
4. An alien who is paroled into the United States under Section 212(d)(5) of the INA [8 U.S.C. § 1182(d)(5)] for a period of at least one year.

5. An alien whose deportation is being withheld under Section 243(h) of the INA [8 U.S.C. § 1253(h)] (as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208) or Section 241(b)(3) of such act [8 U.S.C. § 1251(b)(3)] [as amended by Section 305(a) of Division C of Public Law 104-208].
6. An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980 [8 U.S.C. § 1153 (a)(7)] (see editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment").
7. An alien who is a Cuban or Haitian entrant [as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note)].
8. An alien who meets all of the conditions of subparagraph A, B, C and D below:
  - A. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.
  - B. There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:
    - (1) The benefits are needed to enable the alien to become self-sufficient following separation from the abuser.
    - (2) The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.
    - (3) The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.
    - (4) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.
    - (5) The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
    - (6) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).
    - (7) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
    - (8) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.
    - (9) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.
  - C. The alien has been approved or has a petition pending which sets forth a prima facie case for:
    - (1) Status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA [8 U.S.C. Section 1154 (a)(1)(A)(ii), (iii) or (iv)].

(2) Classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA [8 U.S.C. Section 1154(a)(1)(B)(ii) or (iii)].

(3) Cancellation of removal under 8 U.S.C. § 1229b as in effect prior to April 1, 1997.

(4) Status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA [8 U.S.C. §1154(a)(1)(A)(i)] or classification pursuant to clause (i) of Section 204 (a)(1)(B) of the INA [8 U.S.C. §1154(a)(1)(A)(i)] or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA [8 U.S.C. §1154(a)(1)(B)(i)], or

(5) Cancellation of removal pursuant to section 240A(b)(2) of the INA [8 U.S.C. §1229(b)(2)].

D. For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

9. An alien who meets all of the conditions of subparagraphs A, B, C, D and E below:

A. The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

B. The alien did not actively participate in such battery or cruelty.

C. There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(1) The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.

(2) The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

(3) The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

(4) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody and divorce actions) cause the alien's child to lose his or her job or earn less or to require the alien's child to leave his or her job for safety reasons.

(5) The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(6) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed or clothe children or to put children into a day care for fear of being found by the abuser).

(7) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(8) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

(9) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

D. The alien meets the requirements of (c)8.C. above.

E. For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

10. An alien child who meets all of the conditions of subparagraphs A, B or C below:

A. The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such batter or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

B. There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(1) The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

(2) The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

(3) The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

(4) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

(5) The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(6) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed or clothe children or to put children into a day care for fear of being found by the abuser).

(7) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(8) The benefits are needed to provide medical care during pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

(9) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

C. The alien meets the requirements of 3H(3) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA [8 U.S.C. § 1101(a)(15)].

(e) For purposes of establishing eligibility for "Certification and Approval of Hospital Inspectors" examination, as authorized by Sections 1275, 127010, 127015, 129689 and 129825 of the Health and Safety Code, all of the following must be met:

1. The applicant must declare himself or herself to be a citizen of the United States, a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212 (d)(5) of the INA [8 U.S.C. § 1182(d) (5)]. The applicant shall declare that status through use of a form provided by the Office of Statewide Health Planning and Development.
2. The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the applicant's declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of alien's declared status.
3. The applicant must complete and sign the form provided by the Office of Statewide Health Planning and Development.
4. Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents should be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Office of Statewide Health Planning and Development should request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant should be referred to the local INS office to obtain the proper documentation.
5. The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:
  - A. The document presented indicates immigration status but does not include an alien registration or alien admission number.
  - B. The document is suspected to be counterfeit or to have been altered.
  - C. The document includes an alien registration number in the A6 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.
  - D. The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181b Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for the Hospital Inspector Certification exam.
6. If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien under the PRWORA, the INS verification should be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, benefits should be denied and the applicant notified pursuant to the Hospital Inspector Certification Examination regular procedures of his or her rights to appeal the denial of benefits.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the Office of Statewide Health Planning and Development reasonably believes that an alien is unlawfully in the state based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

(g) Provided that the alien has completed and signed the form provided by the Office of Statewide Health Planning and Development under penalty of perjury, eligibility for the Hospital Inspector Certification Examination shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

(h) Pursuant to Section 432(d) of the PRWORA [8 U.S.C. §1642 (d)], a nonprofit charitable organization that provides federal, state or local public benefits shall not be required to determine, verify or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

(i) Any applicant who is determined to be ineligible pursuant to subsections (b) and (e) or who was made eligible for the Hospital Inspector Certification Examination, whose services are terminated, suspended or reduced pursuant to subsections (b) and (e), is entitled to an appeal, pursuant to Section 7-215 of Article 19, Chapter 7, Part 1.

Authority: Health and Safety Code Sections 18929 and 129675 - 130070

Reference: Health Safety Code Section 129825 and 8 U.S.C. §1621, 1641 and 1642

#### ITEM 1-19 Committee Recommendations



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APPROVED AS SUBMITTED

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(END OF ITEM)

#### ITEM 1-20 AS SUBMITTED

##### Chapter 7

##### Article 21. Plan Review, Building Inspection and Certification of Surgical Clinics, Chronic Dialysis Clinics and Outpatient Services Clinics

##### 7-2100. Scope of Responsibilities.

(a) Except as otherwise provided in these regulations, a city or county building jurisdiction shall be responsible for plan review and building inspection of new construction or alteration of clinic facilities specified in 7-2100 (a) (1), (2) (3) and (4) and shall also provide certification that the clinic facilities identified in 7-2100 (a) (1), (2) and (3) are in conformance with the applicable clinic provisions in the latest edition of the California Building Standards Code. For clinic facilities identified in 7-2100 (a) (1), (2) or (3), construction or alteration shall include buildings converted to the specific purpose.

1. Surgical clinic as defined in Health and Safety Code, Section 1204(b)(1).

2. Chronic dialysis clinic as defined in Health and Safety Code, Section 1204(b)(2).

3. Surgical and/or chronic dialysis clinic building which is freestanding from a building where hospital services are provided and as defined in Health and Safety Code, Section 129725(b)(1).

4. Any building where hospital outpatient clinical services are provided that is freestanding from a hospital building, as defined in Health and Safety Code, Section 129725(a), except those buildings identified in 7-2100(a) (3).

(b) The city or county shall not establish or apply building standards for the construction or alteration of hospital licensed freestanding clinics, as described in Section 7-2100(a) (3) and (4), which are more restrictive or comprehensive than comparable building standards established or applied to clinic facilities which are not hospital licensed pursuant to Health and Safety Code, Chapter 1 (commencing with Section 1200) of Division 2.

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Authority: Health and Safety Code Sections 1892 and 129675 - 130070

Reference: Health and Safety Code Section 129885

**ITEM 1-20 – Committee Recommendations**



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**APPROVED AS SUBMITTED**

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**(END OF ITEM)**

**ITEM 1-21 AS SUBMITTED**

**7-2104. Plan Review and Building Inspection by the Office for Hospital Outpatient Services Clinics.**

(a) If the hospital governing authority or owner of a clinic, as described in Section 7-2100(a)(3) or (4), requests that the Office perform plan review and building inspection for a clinic project, in lieu of the city or county performing these services, the request shall be submitted to the Office in writing. The Office will provide a written response to the hospital indicating the decision to provide or not provide the requested services. If the Office does not agree to provide plan review and building inspection, as requested, the city or county shall conduct these services.

(b) Upon the Office's acceptance to provide plan review and building inspection for a clinic project, the hospital governing authority or owner shall submit the following items to the Office:

1. A completed application, design plans and specifications for the clinic project, pursuant to Section 7-113 and;

2. A fee, pursuant to Section 7-2106.

(c) For clinic facilities described in Section 7-2100(a)(3), upon completion of the building construction and receipt of all applicable fees, the Office will provide certification that the plans and construction comply with the applicable provisions in the California Building Standards Code.

(d) A clinic building which has been accepted by the Office, pursuant to paragraph (a) of this section, shall remain under the jurisdiction of the Office for plan review and building inspection of any subsequent alterations, unless the hospital governing authority or owner submits written notification to the Office, requesting the applicable city or county building jurisdiction to conduct plan review and building inspection for subsequent construction projects of the specified clinic.

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Authority: Health and Safety Code Sections 18929 and 129675 - 130070

Reference: Health and Safety Code Section 129885

**ITEM 1-21 – Committee Recommendations**



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**APPROVED AS SUBMITTED**

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**(END OF ITEM)**

ITEM 1-22 AS SUBMITTED

**7-2106. Fees for Review of Specified Clinics.**

(a) Fees for plan review services of clinic buildings described in Section 7-2100(a)(1), (2) and (3), shall be in an amount not to exceed the actual cost of performing the services.

**EXCEPTION:** When the Office accepts a request from the hospital governing authority or owner to perform plan review and building inspection services for those buildings described in Section 7-2100(a)(3), the fee requirements of Section 7-133 (a)(1) which apply to hospital buildings shall also apply to the project building.

(b) When the Office accepts a request from the hospital governing authority or owner to perform plan review and building inspection services for those buildings described in Section 7-2100(a)(4), the fee requirements of Section 7-133 (a)(1) which apply to hospital buildings shall also apply to the project building.

(c) Fees shall be paid as follows:

1. A non-refundable ~~deposit~~ filing fee of \$250.00 shall accompany the application for plan review. This ~~deposit~~ filing fee will be applied ~~to~~ toward the total fees due for the project.

2. After a preliminary review of the required documents received and determination of the services to be performed, the Office will provide an estimate of the total review fee due based on costs to be incurred.

3. The applicant shall submit payment of the estimated fee prior to start of the plan review and building inspection services.

4. If during the review/inspection process it appears that actual costs will exceed the estimate by more than five percent (5%), the applicant will be informed that additional fees, not to exceed the actual cost will be due and payable immediately upon project completion.

5. All applicable fees for a completed project shall be paid prior to certification by the Office.

~~6. Fees received for a project, which exceed the actual cost for performing plan review and inspection services by more than five percent (5%), will be refunded by the Office.~~

*Authority: Health and Safety Code Sections 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129885*

**ITEM 1-22 – Committee Recommendations**



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APPROVED AS SUBMITTED

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(END OF ITEM)

ITEM 1-23 AS SUBMITTED

**7-2107. Fee Refund.**

(a) Upon written request from the applicant, a fee refund may be issued pursuant to this section.

1. The written request must be submitted to the office within:



- a. One year of the date of written certification of compliance with the applicable clinic provisions.
- b. One year of the date the project is withdrawn by the applicant.
- c. The time limits specified in Section 7-134 for building(s) as described in Section 7-2104.
- 2. No refund shall be issued before written certification is provided, or the project is withdrawn or closed.
- 3. Refunds shall be exclusive of the \$250 filing fee.
- 4. Refunds shall be calculated pursuant to Section 7-2107(b), (c) or (d).

(b) Fees paid for a project, involving a building(s) as described in Section 7-2100 (a) (1), (2), or (3), which exceed the actual cost for performing plan review and inspection services by more than five percent (5%), shall be refunded by the Office.

**EXCEPTION:** Refunds for building(s) described in Section 7-2104 shall be calculated pursuant to the applicable requirements of Section 7-134.

(c) If an applicant withdraws a project that has been submitted to the Office for plan review of a building(s), as described in Section 7-2100 (a) (1), (2) or (3), the unexpended balance of fees paid to the Office for actual cost of plan review services provided shall be refunded to the applicant.

**EXCEPTION:** Refunds for building(s) described in Section 7-2104 shall be calculated pursuant to the applicable requirements of Section 7-134.

(d) If an applicant requests a refund of fees for a project that has been submitted to the Office for plan review and building inspection, as described in Section 7-2100(a) (4), a fee may be refunded to the applicant pursuant to the applicable requirements of Section 7-134.

*Authority: Health and Safety Code Sections 1226, 18929 and 129675 - 130070*

*Reference: Health and Safety Code Section 129885*

#### ITEM 1-23 Committee Recommendations



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APPROVED AS SUBMITTED

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(END OF ITEM)

## INITIAL STATEMENT OF REASONS

### **STATEMENT OF SPECIFIC PURPOSE AND RATIONALE:**

#### **Part 1, Chapter 6**

**Section 1.4.5.1.2** is being amended to correct a technical error in the current regulations. A building from which all acute care services have been removed may still be considered a hospital building, but would not be subject to the seismic retrofit provisions of SB 1953. The applicable requirements and authority having jurisdiction will vary, depending on the new use of the building.

**Section 1.5.2** is being amended to make the requirements consistent with existing statute Health and Safety Code 130063.

#### **Part 1, Chapter 7**

**Section 7-113** is being reformatted for clarity.

**Section 7-115** is being reformatted for clarity, and amended to clearly define the roles of architects and engineers in general responsible charge of health facility construction projects, and for architects and engineers responsible for preparing plans for health facility construction projects.

**Section 7-133** is being amended to make specific the statutory requirements of Health and Safety Code Section 129785 regarding fees paid to the Office for plan review and field observation of health facility construction projects. An applicant health facility pays the Office a fee for these services which is based on a percentage of the estimated construction cost at the time of project submittal. The amendments make clear that the applicant may be responsible for paying additional fees to the Office, if upon completion of a project, the actual construction costs exceed 5% of the estimated construction cost by which the original fee payment was computed. The amendments also clarify that the "minimum filing fee" of \$250 for a project is nonrefundable and will be included in the calculation of the total fee paid for OSHPD's services.

**Section 7-134** makes specific the statutory requirements of Health and Safety Code Section 129785. Statute requires that OSHPD adopt regulations that specify various circumstances under which a fee refund would be applicable. Currently, OSHPD charges a fee for plan review and field observation services for a health facility construction project. The current fee for hospital construction project is 1.64% of the estimated construction cost and for skilled nursing facilities it is 1.5% of the project's estimated construction cost. The applicant health facility provides the estimated cost amount on the project submittal application. The Office will invoice the applicant for the project fee amount based on that cost estimate. Section 7-134 will provide requirements regarding circumstances under which a refund of all or a portion of fees submitted to OSHPD may be issued to the applicant. Specifically:

**Section 7-134 (a)** provides procedural requirements regarding refund requests and identify circumstances under which the Office will not issue a refund.

**Section 7-134 (b)** makes specific the requirements of Health and Safety Code Section 129785. This statute requires that a fee refund will be issued to the applicant when the estimated construction cost of a project exceeds the actual construction cost by more than 5%. The applicant would receive a refund of the excess portion of fees paid which would be based on the applicable hospital or skilled nursing facility fee schedule (as specified in Section 7-133) and calculated on the amount the estimated cost exceeds the actual construction cost. This refund requirement would apply to completed construction projects. Statute also provides an exception to this refund situation. It requires that in order for an applicant to receive a fee refund health facility project, construction of at least 75% of the square footage for must be complete. Additionally a refund will not be issued if the scope of the originally approved construction project is reduced by 25% or more.

**Section 7-134(c)** makes specific the requirements of Health and Safety Code Section 129785. This statute requires that the Office, identify in regulation, "other" circumstances when the Office will issue a refund for fees paid. The circumstances outlined in section 7-134(c) apply to refunds for projects cancelled or withdrawn by the applicant. When construction plans and specifications are submitted to the Office they are reviewed by architects and engineers for approval and building permit. Upon commencement of construction the field staff provide review and observation of the facility construction. The plan review services equate to approximately 70% of the full services provided by the Office for a project, with approximately 30% of the services being field construction related. The Office used these percentages to determine the percentage of fee that may be refunded for projects that are withdrawn before completion. The \$250 minimum filing fee, as established in Section 7-133(a)(3), is nonrefundable.

**Section 7-144 (b)** is being added to clarify that when a lead inspector is identified for a construction project, the lead inspector must be certified in a class appropriate for the scope of the project.

**Section 7-144 (c)** is being added for clarification. The amendments make reference to other sections of Title 24, Part 1, California Building Standards Administrative Code which are related to hospital construction "inspection" but are located in another "article" of Part 1. These referenced sections provide requirements for approval of a hospital inspector for a project and inspector's performance on a project.

**Sections 7-161, 7-163, 7-165 and 7-171** are being amended to specify that the timeframes for the progressive steps in appeals to the Hospital Building Safety Board will be calculated in "business" days rather than "days". Using "business" days eliminates the weekend days which are typically nonworking days. Additionally, the number of days for some procedural steps are being increased to ensure that the HBSB staff, HBSB members, the appellant and other parties involved in the appeal process have adequate time to review documents, coordinate meeting arrangements, prepare and distribute applicable notifications and related documents regarding the appeal.

**Section 7-191 (a)1. (E),(F), (G) & (J)**

**(E)Estimate of Value of Services** – This section is being repealed, in part, to more clearly define the negotiation process for establishing the hourly billable rates and selection of firms for provision of contract services.

**(F) Fee Negotiation with Firms** – This section is being amended to more clearly define the negotiation process for establishing hourly billable rates, timeframes for response, and selection of firms for retainer contract services. The amended provisions also stipulate requirements for the contract provisions as to time and monetary limitations. This amended language defines current and future contracting procedures of the Office.

**(G) Services Negotiations with Firms** - This section is being amended to more clearly define the negotiation process for awarding contracts or assignments. The amended language stipulates the number of opportunities to respond, timeframes for response and the Office's role in selecting a firm for award of contracts or assignments. This amended language defines current and future contracting procedures of the Office.

**(J) Contracting in Phases**- This section is being amended to add clarifying language.

**Section 7-200 (a) (1) & (2)** makes an editorial change.

**Section 7-200 (a) (3)** refers to Section 7-204(c)1 to identify the areas of construction specialty that a Class "C" Hospital Inspector may inspect for a hospital project.

**Section 7-203** is amended to name the form for verification of citizenship and refer to the new section where requirements for verification of citizenship will be located. Editorial change in paragraph (b).

**Section 7-204 (c)** expands the experience necessary to qualify for a Class "C" Hospital Inspector exam by including experience as a representative in technical inspection for a local fire authority, testing lab and specialty contractor. In addition, nationally recognized organizations test and issue certification in various construction inspection specialties. The certifications listed in this section are known to test the technical knowledge and skills required to inspect hospital construction projects.

**Section 7-204(d)** Requirements for verification of citizenship for hospital inspector certification applicants are being relocated to the end of the section for clarity.

**Section 7-205** is being repealed because the requirement is outdated. When the regulations for the Hospital Inspector Certification Program were adopted in 1997, Section 7-205 provided language to allow existing hospital inspectors to maintain their current certification for three years. Existing inspectors were given this three-year period within which to "recertify" under the new certification program regulations. Without this recertification their original certification would expire. This "grandfathering" period has expired, therefore, Section 7-205 is no longer necessary.

**Section 7-207(b)** identifies the areas of knowledge and abilities to be tested in a Class "A", "B" or "C" exam. It also specifies that for Class "C" inspector candidates, the inspection certification of an exam candidate may be substituted for the technical portion of the exam.

**Section 7-207(c)** this subsection applies to only the Class "A" and "B" hospital inspector exam. Candidates for these exams must have a passing score in all applicable sections of the exam. This is not applicable to Class "C" exam.

**Section 7-207(d)** is added to specifically addresses the Class "C" exam. This exam does not contain more than one section therefore the candidate must obtain an overall passing score.

**Section 7-210, exception 2** is being deleted, because it is outdated and no longer needed.

**Section 7-212(b)(2)** is editorially amended so that the requirement will be applicable to certification in areas of construction for all three hospital inspector Classes.

**Section 7-212(c)** is amended to repeal outdated and unnecessary language.

**Section 7-216** is added. Requirements for verification of citizenship of hospital inspector candidates are relocated to this section.

**Section 7-2106 (c) (1)** is being amended for clarity and consistency with other OSHPD fee requirements in Title 24, Part 1.

**Section 7-2106 (c) (6)** is being repealed because the fee refund requirements under the new Section 7-2107 will replace this language.

**Section 7-2107** is being adopted to make specific the requirements of Health and Safety Code Section 129785. This statute requires that the Office identify in regulation the circumstances under which the Office will issue a refund for fees paid for plan review and field observation. This new Section 7-2107 applies to refunds for projects submitted to the Office regarding the types of clinic facilities, as identified in Section 7-2100 (a) (1), (2), (3) and (4). Specifically, these clinics are: (1) licensed surgical clinic, (2) licensed chronic dialysis clinic, (3) a surgical or chronic dialysis clinic which is a freestanding building but is under a hospital license, and (4) a freestanding building which provides outpatient clinical services, other than surgical or chronic dialysis, and is under a hospital license.

Clinic construction projects, in most cases, are submitted to the local building jurisdiction which will provide plan review, inspection and certification that the clinic construction project meets the provisions of Title 24, California Building Standards Code. However, in the circumstances where the local building jurisdiction will not provide these services for clinics identified in 7-2100 (a) (1), (2) or (3), the Office may agree to provide plan review and certification and will charge a fee for actual cost of the services. If the fees paid for a clinic project submitted to the Office exceed 5% of the actual cost of the services, a fee refund will be issued pursuant to new Section 7-2107(b). If the clinic project is withdrawn by the applicant, a refund of the unexpended fee amount will be issued as described in new Section 7-2107 (c).

In some cases, as described in Section 7-2104, the hospital governing authority may request that the Office perform plan review and building inspection for those outpatient clinics under a hospital license, which are identified in 7-2100 (a) (3) or (4). If the Office accepts the request, then the applicant will be charged a fee pursuant to Section 7-133 (a) (1), which is calculated at 1.64% of the estimated construction cost for the project. If fees paid, pursuant to 7-133 (a) (1), for a clinic project exceed 5% of the estimated construction cost a refund for the excess portion paid will be issued pursuant to the applicable requirements of new Section 7-134. If the clinic project is withdrawn the refund will be calculated pursuant to Section 7-133. These refund provisions will make specific the requirements of Health and Safety Code Section 129785.

#### **TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS:**

There are no technical, theoretical and empirical studies or documents to be identified regarding the development of these proposed regulations.

#### **CONSIDERATION OF REASONABLE ALTERNATIVES**

There were no alternatives considered by the Office. The proposed code changes will eliminate outdated requirements, provide clarification of the existing regulations and implement existing statutory requirements.

#### **REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

These proposed regulations will not adversely impact small businesses.

#### **FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.**

The scope of the proposed code changes is to repeal outdated requirements, make technical modifications for clarity of existing regulations and implement existing statutory requirements. The OSHPD has not relied on any other facts, evidence, documents, testimony, or other evidence to make its initial determination of no significant adverse impact on businesses.

#### **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

N/A